UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/717,122	11/08/96	SZUMNY	8661-009

EXAMINER

18N2/0926

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

ART UNIT	PAPER NUMBER
1611	4

DATE MAILED: 09/26/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 6-3-97 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire ~~month(s)~~, 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☒ Notice of Draftsman's Patent Drawing Review, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐ _____.

Part II SUMMARY OF ACTION

1. ☒ Claims 1-49 are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 1-49 are subject to restriction or election requirement.
7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____. has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____ ; filed on _____.
13. ☐ Since this application apppears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

PTOL-326 (Rev. 2/93)

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-33, drawn to a method of treating a disease that results from a deficiency of a biological factor in a mammal, classified in class 435, subclass 240.2.

II. Claims 34-39, drawn to a method of transplanting sertoli cells for creating systemic tolerance to transplants, classified in Class 604, subclass 89.1.

III. Claim 40, drawn to a method of enhancing the recovery rate and viability of frozen cells via co-culture, classified in class 435, subclass 93.1.

IV. Claims 41-46, drawn to a pharmaceutical composition, classified in class 424, subclass 93.1.

V. Claims 47-48, drawn to a compartmentalized kit, classified in class 435, subclass 287.

VI. Claim 49, drawn to drawn to an article of manufacture, classified in class 426, subclass 106.

The inventions are distinct, each from the other because of the following reasons:

The invention of Group I is distinct and different from the inventions of Groups II-IV, since it does not necessarily involve treatment with a pharmaceutical, nor does it require transplantation or co-culturing as set forth in Groups II and II, respectively. In addition, a kit is different from a method as is an article of manufacture, Furthermore, Groups II and III are entirely different methods wherein Group II is a method of transplantation and Group III is a method of enhancing recovery rate and viability of frozen cells which may require cryopreservation not required in a

method of transplantation. Moreover, a pharmaceutical, kit and article of manufacture are clearly different from the claimed methods of Groups I, II and III which do not require these products in order to carry out the claimed methods. Thus, there appears to be two way distinctness for the method and product claims, and one way distinctness between product and a method. Therefore, the restriction requirement has been set forth in order to alleviate any searching burden posed by the different claimed subject matter presented herein.

2. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and the search required for one Group is not required for the search required for another Group, restriction for examination purposes as indicated is proper.

4. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be

directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:
(1) if a machine or apparatus, its organization and operation;
(2) if an article, its method of making;
(3) if a chemical compound, its identity and use;
(4) if a mixture, its ingredients;
(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Applicant is reminded of the proper content of an Abstract of the Disclosure.

In chemical patent abstracts for compounds or compositions, the general nature of the compound or composition should be given as well as its use, *e.g.*, "The compounds are of the class of alkyl benzene sulfonyl ureas, useful as oral anti-diabetics." Exemplification of a species could be illustrative of members of the class. For processes, the type reaction, reagents and process conditions should be stated, generally illustrated by a single example unless variations are necessary.

Complete revision of the content of the abstract is required on a separate sheet.

Any inquiry concerning this communication should be directed to P. Lynn 747122.res Touzeau, Ph.D. at telephone number (703) 308-3965.

24 September 1997

CECILIA J. TSANG
SUPERVISORY PATENT EXAMINER
GROUP 1800